

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Hearing Date: January 14, 2003

Subject Matter of Proposed Regulations: Continued Competency Requirements; Supervision of Occupational Therapy Assistants, Limited Permit Holders, Students, and Aides.

Sections Affected: Title 16, Division 39, California Code of Regulations, Sections 4160, 4162, 4163, 4180, 4181, 4182, 4183, and 4184.

SPECIFIC PURPOSE OF THE REGULATIONS:

On January 1, 2001, Senate Bill 1046 (Murray, Chapter 697, Statutes of 2000) took effect, establishing the Board whose duties are to license occupational therapists, certify occupational therapy assistants and regulate the occupational therapy profession, with consumer protection as its number one priority. Existing law sets the education, experience and examination requirements as a means of determining entry level competency for occupational therapy practitioners. Existing law also gives the Board authority to adopt, by regulation, continuing competency requirements as a condition of license renewal and requires the Board to adopt rules necessary to assure appropriate supervision of occupational therapy assistants, limited permit holders, students, and aides. The proposed regulatory actions are necessary to implement this legislation.

FACTUAL BASIS/NECESSITY:

Section 4160: Existing law gives the Board authority to establish rules regarding continuing competency requirements. Although practitioners are tested for entry-level competence before they can be licensed, the health care profession is one of constant change as research and technologies improve. One way of ensuring that health care professionals keep abreast of current practice is to require participation in activities and programs designed to enhance their knowledge, skills, and abilities. This proposed regulation would define "professional development" as activities or programs engaged in to increase knowledge, skills and abilities. It would also define Level II students as those students completing the fieldwork portion of an entry-level academic degree program, supervision of whom would be considered a professional development activity.

Section 4161: This proposed regulation would require occupational therapy practitioners, as a condition of license renewal, to demonstrate continuing competency by participating in professional development activities during the renewal period. It would specify what constitutes a professional development activity and would identify the types of professional development activities acceptable to the Board. It would identify the unit of measurement as a professional development unit (PDU) and would provide a formula for conversion of professional development activities, academic and continuing education

units to PDUs. It would require the practitioner to obtain 12 PDUs during the renewal period, six of which must be directly related to the delivery of occupational therapy services and would provide that the continued competency requirements would not apply to the first renewal period following initial licensure.

The Board recognizes that occupational therapy practitioners practice in diverse settings, offering a variety of services to assist clients throughout the life span in activities of daily living and restoring or enhancing independence. This proposed regulation is needed to provide direction for practitioners as they meet the continuing competency requirements while at the same time providing multiple settings in which to achieve compliance.

Section 4162: This proposed regulation would specify the type of information to be provided to the Board by the occupational therapy practitioner at the time of renewal, would require the practitioner to maintain records on professional development activities for a period of four years following the renewal period, would provide that a maximum of 3 PDUs could be carried over to the next renewal period, and would specify that a practitioner unable to provide proof of having completed the continued competency requirements would be subject to citation and or administrative fine or other disciplinary action. The Board intends to audit compliance with continuing competency requirements. This proposed regulation is needed for administrative purposes because it informs practitioners of the records to be kept for auditing purposes.

Section 4163: This proposed regulation would provide that, at the time of renewal, the occupational therapy practitioner could request an exemption from meeting the continued competency requirements if, during the renewal period, the practitioner was in another country for one year or longer, engaged in military or missionary service for one year or longer, was mentally or physically incapacitated, or was caring for a mentally or physically incapacitated family member for one year or longer during the renewal period. This proposed regulation is needed to allow practitioners exemption from meeting continuing competency requirements when they can demonstrate good cause for being unable to meet them.

Section 4180: Existing law requires the Board to develop regulations regarding supervision requirements for occupational therapy assistants, limited permit holders, students and aides when providing direct client related services. Existing law also uses the terms “client related” and “non-client related” tasks, Level I and Level II students, and “periodic review”. This proposed regulation is needed to define those terms.

Section 4181: This proposed regulation would specify what constitutes appropriate supervision of occupational therapy assistants; would provide that supervising occupational therapists be responsible for all occupational therapy services provided by occupational therapy assistants, limited permit holders, students, and aides; would provide that occupational therapy assistants could supervise occupational therapy assistant limited permit holders, Level I occupational therapy students, Level I and II occupational therapy assistant students, and aides providing non-client related tasks; and

would require supervising occupational therapists to determine that those under their supervision possess the requisite certificates or permits to provide occupational therapy services. This proposed regulation is needed to clarify the supervision requirements, to hold the supervising occupational therapist accountable for services provided by those under their supervision, and to ensure that occupational therapy assistants, limited permit holders, students and aides do not function autonomously.

Section 4182: This proposed regulation would provide that the supervising occupational therapist determine the treatments the occupational therapy assistant could perform based on the clinical complexity of the client, the skill level of the occupational therapy assistant, and the client's need for continual reassessment during treatment. This regulation would specify that the supervising occupational therapist be responsible for interpretation of referrals or prescriptions for occupational therapy services, interpretation and analysis for evaluation purposes, and development, interpretation, implementation and modification of the treatment and discharge plans. It would also provide that the occupational therapy assistant could participate in these processes. This proposed regulation is needed to identify when and under what conditions it would be appropriate to delegate certain client related tasks to the occupational therapy assistant, while ensuring that the occupational therapy assistant does not practice autonomously.

Section 4183: This proposed regulation would specify that the Level II occupational therapy student could, at the discretion of the supervising occupational therapist, provide occupational therapy services commensurate with his or her education and training. It would also require that all documented client-related services provided by limited permit holders and students be reviewed and cosigned by the supervising occupational therapist. This proposed regulation is needed to allow the Level II occupational therapy student to gain experience in clinical settings. It is also necessary to ensure that the supervising occupational therapist assumes full responsibility for all client-related services performed by limited permit holders and Level II students by reviewing and cosigning the medical record.

Section 4184: This proposed regulation would specify that the primary function of an aide is to perform routine tasks related to occupational therapy services; would identify the client-related tasks that could be delegated to an aide and the factors that must be considered before delegation; would specify that an aide could **not** perform occupational therapy evaluative procedures, initiation, planning, adjustment, or modification of treatment procedures, act on behalf of the supervising occupational therapist in any matter related to treatment that requires decision making, and use physical agent modalities; and would require that all documented client-related services be reviewed and cosigned by the supervising occupational therapist. This proposed regulation is needed to clarify the role of the occupational therapy aide as an unlicensed person and to ensure that the supervising occupational therapist assumes full responsibility for all client-related services by reviewing and cosigning the medical record.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS:

National Board for Certification in Occupational Therapy's Professional Development Requirements.

American Occupational Therapy Association's Model State Regulations for Supervision of Occupational Therapy Assistants and Aides.

DISCLOSURES:

The proposed regulations do not impose a mandate on local agencies or school districts.

No alternatives were presented to or considered by the Board that would either be more effective than or as effective as and less burdensome on affected private persons.

The proposed regulations do not mandate the use of specific technologies or equipment.